

HEIDI HEITKAMP
NORTH DAKOTA
HART SENATE BUILDING 516
WASHINGTON, DC 20510
PH: 202-224-2043
FAX: 202-224-7776
TOLL FREE: 1-800-223-4457

<http://www.heitkamp.senate.gov>

United States Senate

WASHINGTON, DC 20510

July 12, 2018

COMMITTEES:
AGRICULTURE, NUTRITION AND FORESTRY
BANKING, HOUSING AND
URBAN AFFAIRS
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
INDIAN AFFAIRS
SMALL BUSINESS AND ENTREPRENEURSHIP

The Honorable Andrew Wheeler
Acting Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

Dear Acting Administrator Wheeler,

I want to first congratulate you on your being named Acting Administrator for the Environmental Protection Agency (EPA). In your new role leading the EPA, it is important to reiterate the priorities and issues that we discussed during our meeting in December, including following the statutory regulations for the Renewable Fuel Standard (RFS), rewriting the Clean Power Plan (CPP) to recognize and account for state-level generation needs while reducing greenhouse gas emissions from electric generating units, and continuing work to redefine "Waters of the United States" (WOTUS). To better understand the impacts of these regulations on my state, I want to invite you to North Dakota so that you can meet with a variety of stakeholders to discuss and look at pragmatic solutions to these issues – and to tour various energy facilities and research sites.

While it is encouraging that the EPA made its statutory deadline in releasing the proposed Renewable Volume Obligations (RVOs) for the RFS, it is concerning that the uncertainty regarding EPA's improper use of waivers for large refiners was not addressed and the administration again failed to live up to its commitment to support yearlong E15 sales, which continues to threaten farmers and biofuel producers. Continuing to propose incremental adjustments to the annual RVOs while simultaneously undermining the RFS via improper refinery waivers does not constitute the strong support for the RFS and biofuels that Congress continually demands. I urge you to quickly and transparently resolve the issue surrounding improperly granted waivers and to formally propose granting E15 a Reid Vapor Pressure waiver allowing for sale year-round.

Regarding the CPP, it is encouraging to hear that a rewritten rule has been sent to the Office of Management and Budget for final review. As we discussed in our meeting, it was disappointing that the previous administration did not take into account the serious and thoughtful ideas from North Dakota utilities and other stakeholders who were willing to make tough decisions and agree to significant emissions reduction levels. This was reflected in the unworkable and unrealistic target set for North Dakota in the final plan – that mandated reductions four times larger than those in the draft proposal. North Dakota utilities and stakeholders stand ready and are willing to put forward and evaluate pragmatic ideas to reduce emissions and create tough but fair rules to reduce carbon emissions. It is imperative that any rule have flexibility for states and utilities to achieve the stated goals through innovation and planning based on what works best for the generation mix in each individual state. It is also important to consider timelines that take into account the useful life of electric generating units – so that utilities, co-ops, and ratepayers

BISMARCK OFFICE:
228 FEDERAL BUILDING
220 EAST ROSSER AVENUE
BISMARCK, ND 58501
PH: 701-258-4648
FAX: 701-258-1254

DICKINSON OFFICE:
40 1ST AVENUE WEST
SUITE 202
DICKINSON, ND 58601
PH: 701-225-0974
FAX: 701-225-3287

FARGO OFFICE:
306 FEDERAL BUILDING
657 SECOND AVENUE NORTH
FARGO, ND 58102
PH: 701-232-8030 – 1-800-223-4457
FAX: 701-232-6449

GRAND FORKS OFFICE:
33 S. 3RD ST., SUITE B
GRAND FORKS, ND 58201
PH: 701-775-9601
FAX: 701-746-1990

MINOT OFFICE:
105 FEDERAL BUILDING
100 FIRST STREET S.W.
MINOT, ND 58701
PH: 701-852-0703
FAX: 701-838-8196

are not stuck paying for stranded assets. I look forward to reviewing the EPA's replacement rule when it becomes public and continuing to engage and work constructively on a new plan.

In addition, I urge the agency to continue its collaborative work with the Department of the Army (Army) and the Army Corps of Engineers in its proposed action to repeal the 2015 definition of WOTUS. In February 2017, I applauded the president's action in ordering a review and reconsideration of WOTUS which launched the regulatory process that the EPA, the Army and Army Corps of Engineers are now undergoing in a supplemental proposal. It is important that the agencies thoroughly engage the public and provide clarity to the rulemaking process to ensure that a new WOTUS definition meets high standards for clean water and provides regulatory clarity on what qualifies as protected waterways.

I look forward to continuing our dialogue on these and other issues important to North Dakota and that now are your responsibility as you take the reins in leading EPA – and stand ready to work with you on arranging a trip to North Dakota that I am confident will better inform your decisions moving forward on a whole host of issues.

Sincerely,

A handwritten signature in blue ink that reads "Heidi Heitkamp". The signature is stylized with a large, looped "H" and a cursive "Heitkamp".

Heidi Heitkamp
United States Senator